



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

SEPTEMBER 12, 2006

PRESENT: Acevedo, Koepp-Baker, Benich, Davenport, Escobar, Lyle, Mueller

ABSENT: None

LATE: None

STAFF: Community Development Director (CDD) Molloy Previsich, Planning Manager (PM) Rowe, Senior Planner (SP) Tolentino, Associate Planner (AP) Golden, Deputy Director of Public Works (DDPW) Bjarke, Business Assistant and Housing Services Director (BAHSD) Toy and Minutes Clerk Delgado.

Chair Benich called the meeting to order at 7:00 p.m.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Delgado certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

With no members of the audience indicating a wish to address matters not on the agenda, the time for public comment was closed.

MINUTES:

JULY 25, 2006

Prior to the request for approval of the July 25, 2006 Commission meeting minutes, CDD Molloy Previsich requested clarification of the action taken by the Commission at the July 25, 2006 meeting regarding Zoning Amendment, ZA-06-03, Restricted Commercial Residential (CRR) zoning text amendment and parcel rezonings.

CDD Molloy Previsich presented the memorandum. She reminded the Commission they struggled with this issue. Staff was preparing to forward the commission's action to the City Council, however the City Attorney reviewed the approach and advised staff that because this is a quasi-judicial matter and we're in the middle of a public hearing process it would not be appropriate for the Council to participate in a workshop with the Commission at this time. CDD Molloy Previsich indicated that the Commission needed

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to forward its recommendations, and Council will hold its own hearing and decide where to go from there. This could include reconsideration on the merits of the policy regarding the non-retail district. However, that is for the Council to decide. Given the second part of the Commission's action can not move forward; CDD Molloy Previsich asked the Commission to clarify whether or not the first part of the action is to forward the draft ordinance and commission comments for Council consideration. CDD Molloy Previsich asked if this means the Commission held their public hearing and are prepared to forward their recommendations or does the Commission want to hold a workshop and another noticed public hearing on the proposed restricted commercial residential district. Commissioner Mueller recommended that the item be agendized and that the Planning Commission hold an informal workshop with the landowners without the council. This would help the Commission build a solid case to send a recommendation to council. Commissioner Escobar advised he is in favor of Commissioner Mueller's recommendation since he made the motion to facilitate that with the Council. Chair Benich asked what the timing is on this. CDD Molloy Previsich advised there is still time to move forward as the Commission wishes. Commissioner Acevedo asked if the reason why we are in a quasi-legal matter is because the Commission already opened the public hearing. CDD Molloy Previsich advised, yes. Commissioner Acevedo asked if the Commission had requested a workshop before the public hearing, would we not be in a quasi-legal matter. CDD Molloy Previsich advised, the Council could have decided they were interested in the matter. However, at this point we are working with existing general plan policy and the charge before the Commission is to come up with a district that would implement existing general plan policy. Commissioner Mueller advised that we're in the middle of an application to implement existing policy and there are certain requirements on how this occurs. It is not appropriate for Council to give guidance this early in the process because they are the final decision makers. Commissioner Lyle stated that he is against bringing the item back to the Commission. Commissioner Acevedo asked Commissioner Lyle if he would endorse the issue as it is and send it to Council. Commissioner Lyle advised yes, he would. The general consensus is that the Commission will hold a workshop; they will leave it up to staff to schedule the workshop. Commissioner Acevedo clarified that the main reason for the workshop was to give the landowners an opportunity to speak their peace. Commissioner Mueller stated that the workshop and the action will be on the implementation of the policy; not the policy itself.

JULY 25, 2006

COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO APPROVE THE JULY 25, 2006 MINUTES:

THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

AUGUST 8, 2006

COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO APPROVE THE AUGUST 8, 2006 MINUTES WITH THE FOLLOWING CORRECTIONS:

PAGE 9: ONE SENTENCE THAT COMMISSIONER MUELLER WILL REVIEW WITH THE MINUTES CLERK.

PAGE 10: CHANGES FROM RPD TO PUD

THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

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PUBLIC HEARING:

1) ZA-04-05: CITY OF M.H.-ADOPTION OF HISTORIC CONTEXT STATEMENT The Planning Commission is requested to review and provide comments on the Historic Context Statement.

SP Tolentino presented the staff report. The consultant is still revising the document; specifically the representative projects. Staff does not have a revised document for the commission to review at this time. Staff will have a revised document by 9/15/06 whereby the document will be distributed and posted on the website.

Chair Benich advised that he did have a number of comments which he e-mailed to the consultant.

COMMISSIONER ESCOBAR MADE A MOTION TO CONTINUE THE ITEM TO THE SEPTEMBER 26, 2006 MEETING. COMMISSIONER MUELLER SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

2) ZA-05-15/SD-05-15/DA-05-10: BARRETT-SYNCON HOMES A request for approval of a precise development plan for a 52 unit single family development proposed on a 13.5 acre site located between San Pedro Ave. and Barrett Ave. immediately south of San Ramon Dr. Also requested is the approval of a 32-lot subdivision map and development agreement.

PM Rowe presented the staff report. PM Rowe advised there are two issues that are not in full resolution. The first issue is the plan as proposed has Phase I ending San Gabriel midway. Public Works and the Fire Department are recommending that as part of Phase I street improvements extend the road all the way down to make a connection to the existing stub out. This will provide two means of ingress/egress out of the development. Without this all the traffic will be funneled back through San Ramon to San Pedro. The applicant would like to defer this due to cost constraints. The second issue has to do with the projects Measure P application. In the Measure P application the applicant proposed one additional BMR unit based on discussions with staff. The recommended action is to adjust the line to create another BMR at a different location within the project. The applicant is requesting a reconsideration of this. Although it was a commitment; prior to the start of the competition staff had advised the applicant that in order to fulfill the BMR requirements (5 percent low; 8 percent median) there had to be enough units within those income guidelines to meet the 5 percent or 8 percent threshold. Consequently, the project overcommitted; it has more than 13 percent and is requesting to drop one BMR unit.

Commissioner Lyle stated, with respect to this modified ordinance, it would be good if Council would take this up soon because the Commission is going to get more and more of these agreements and this needs to be settled. It would be good to extend the ordinance to cover allotments through 9/10 this will cover everything that will be coming forth. Commissioner Mueller asked how many BMR's the applicant is requesting to build. PM Rowe advised a total of 8 BMR units; plus 6 moderate Non-

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BMR units. Commissioner Mueller asked if the applicant is requesting to only build 7 BMR units. PM Rowe advised, yes, that is correct due to the over commitment. Commissioner Koepp-Baker asked if the developer is okay with the extended roadway. PM Rowe advised, no.

Chair Benich opened the hearing for public comment.

Craig Miott, a representative from Barrett Syncon Homes, wanted to clarify some issues presented by Staff. The first issue regarding the overcommitment of the BMR's. Barrett Syncon Homes was one of the few applicants that did a preliminary review (Pre-Measure P Scoring Review). Page 7 of the Project Narrative Questionnaire reveals the original proposal of 7 BMR units. However, they were notified by staff they had to increase the allocation to 8 BMR units. Subsequently after the application was submitted, they found out they overcommitted their BMR units. They applicant requested to go back to their original proposal of 7 BMR units. The second issue has to do with the phasing of the project. The applicant has received allocations in two different cycles of Phase I; one cycle allots 13 units and the other five units. The applicant can not install full street improvements with the limited amount of allocations they've received in the first cycle of the first phase of the project. The applicant proposed to complete the full street improvements by the third phase; in the meantime they would like to install an all-weather road for construction access, with gravel so police and fire can travel through the site. The final issue Mr. Miott discussed has to do with the detention pond. The applicant has been in contact with the Santa Clara Valley Water District and the Regional Water Quality Control Board on whether or not the detention pond needs to be lined.

Chair Benich asked Mr. Miott if the points the applicant received for the competition for the building allocations were based on building 8 BMR units or 7 BMR units. Mr. Miott advised the points would not change based on building 7 or 8 BMR units.

Chair Benich closed the public comment period.

Commission discussion followed.

Commissioner Mueller asked staff to confirm that the reduction in the number of BMR units wouldn't change the scoring of the project. PM Rowe confirmed going from 8 BMR units to 7 wouldn't change the score. Commissioner Lyle asked about the phasing of the project and the installation of the off-site improvements, specifically the road requirements for the first 13 units. DDPW Bjarke stated that is the position Public Works would take. When Public Works required the circulation connection they were looking at the whole 18 units. This change would be a condition of the next five units. Commissioner Mueller asked about the lining of the detention pond. PM Rowe advised the issue surrounding the detention pond is the water district's jurisdiction. The Water District will have the ultimate say about the lining of the detention pond. Commissioner Mueller asked PM Rowe about the moving and modifications to the historical building. Commissioner Mueller expressed his concern about the loss of value to the historical building as a result of the move and modifications being proposed. PM Rowe advised that moving the building out of its historical context shouldn't compromise the value or status of the building. The addition to the historic building is an attached garage.

COMMISSIONER MUELLER OFFERED A RESOLUTION TO APPROVE THE MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER MADE A MOTION TO RECOMMEND APPROVAL OF THE ZONING AMENDMENT, ZA-05-15: BARRETT – SYNCON HOMES WITH STAFF’S RECOMMENDED CHANGES REGARDING THE NUMBER OF COMMITTED BMR UNITS. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER MADE A MOTION TO APPROVE THE TENTATIVE MAP WITH STAFF’S RECOMMENDED CHANGES REGARDING THE NUMBER OF COMMITTED BMR UNITS, THE INSTALLATION OF THE EAST/WEST CONNECTION OF SAN GABRIEL DR. WITH THE PHASE THAT BUILDS THE 18TH UNIT, AND THE DETENTION POND IS TO REMAIN UNLINED UNLESS REQUIRED BY THE SANTA CLARA VALLEY WATER DISTRICT. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER MADE A MOTION TO APPROVE THE DEVELOPMENT AGREEMENT, DA 05-10: BARRETT – SYNCON HOMES WITH THE FOLLOWING CHANGES: CHANGE THE NUMBER OF COMMITTED BMR UNITS TO SEVEN, COMPLETE THE ROADWAY WITH THE PHASE THAT BUILDS THE 18TH UNIT, AND STAFF’S RECOMMENDED CHANGES REGARDING THE ADDITION TO ZONING AND SUBDIVISION RESOLUTIONS AND CHANGES TO PAGE 10 OF THE RESIDENTIAL DEVELOPMENT AGREEMENT: SECTION (n) The property Owner agrees to provide the following Circulation improvements: and (n) (ii) The project provides R.O.W. dedication along Del Monte Ave on the Joseph Faris property between Cosmo Ave and Spring Ave *and provides full right of way improvements (AC, curb, gutter and side walk)* or pay an *improvements* in-lieu fee of \$2,200/unit. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

- 3) **ZA-06-09:** A request for approval of a Residential Planned Development, for a 6-lot single-family attached unit development located on an approximately 0.44 acre parcel on the south side of Myrtle Ave between Monterey Rd and Church St.
MYRTLE-LATALA

AP Golden presented the staff report. The current proposal is to develop three units;

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which are exempt from the residential development control system (RDCS). Total build out would be six units. The additional three units will have to go through RDCS. Staff recommended the approval of the RPD with a modification to the front setback for lots 2 and 5 (13 ft); this is a correction to the plan.

Commissioner Lyle asked staff what is the public benefit of this project. AP Golden advised the public benefit is the construction of higher density in the downtown area which would otherwise be allowed without the RPD. Higher density is a goal of the downtown. PM Rowe added that when the requirement for a RPD was included in the development of contiguous parcels with the same owner, it was to provide a means to ensure that a coordinated development occurred between those in order to achieve the density the zoning allowed. He stated it is more of an implementation tool to ensure that these properties are developed efficiently. It also creates a more affordable project. Commissioner Mueller stated that if this was not a RPD the developer may only be able to build four units as opposed to six. Commissioner Mueller inquired about the affordability of the homes. Chair Benich advised what the Commission was trying to accomplish with the RPD's is to prevent piecemealing. AP Golden added that the applicant is proposing to develop lots 1, 2 and 6. Commissioner Lyle asked if the applicant can compete in the micro competition for the next 3 units, or if the City could reduce the number of units reserved for non-Measure "C" projects by 3 and assign them to this project as an already competed small project, but as a Micro. PM Rowe advised staff can look into Commissioner Lyle's request.

Chair Benich opened the Public Hearing.

Mr. Bill McClintock spoke on Mr. Latala's behalf. Commissioner Lyle asked how the applicant plans on building lot 6. Mr. McClintock advised they would have to install siding or something that will be removed later. Commissioner Mueller asked Mr. McClintock about the affordability of the units. Mr. McClintock advised that he believes that the units may be more affordable than market rate because of the high density area, which is the goal of downtown.

COMMISSIONER MUELLER MADE A MOTION TO RECOMMEND APPROVAL OF THE ZONING AMENDMENT: ZA-06-09: MYRTLE – LATALA. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

**4) ZA-06-05/
SD-05-08/DA-05-06:
GINGER CUSTOM
ONE**

A request for approval of a development agreement and subdivision of an approximate 1.4 acre site for the construction of five single-family homes. The subject site is located at the southeast corner of Rose Lane and Ginger Way in a R1(7,000) Zoning District.

SP Tolentino presented the staff report. She stated this is a request for approval of a five lot subdivision and development agreement. When this agenda item was first advertised for public hearing a zoning amendment for a RPD was originally proposed, however the applicant has revised their plans so that the project complies with all the applicable R-1 zoning standards. Therefore, a zoning amendment is no longer needed or requested. SP Tolentino also stated the proposed subdivision would create a rear yard setback for an existing unit on Lot 5 which would be two feet below the minimum

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standard. As a condition of the subdivision approval, staff included a provision requiring the applicant to submit a minor exception application to the Planning Division for review and approval. The minor exception would allow a two foot reduction in the required rear yard setback.

Chair Benich opened the public hearing.

Mr. Bill McClintock, representative from MH Engineering, stated that they concur with staff's recommended changes. However, they do have an issue with the development agreement, page 7, section j – iv and they are currently in discussions with Public Works regarding the value of the street improvements. This value is based on the adjoining property not being approved. The applicant had to guarantee that Rose Lane would be built to full standards in order to get the credits. The fact of the matter is that Custom One and the Murray project were both approved and some of the improvements will now be shared. Mr. McClintock is requesting to meet with Public Works and get some clarification regarding this issue.

Mr. Gary Walton, applicant, advised the Commission that he met with Scott Murray (applicant for adjacent Measure C project), and Scott indicated they will agree to allow Custom One to install the street improvements. Scott Murray was going to meet with the other party, who still has not agreed to allow Custom One to install the street improvements at their cost. Unfortunately, Mr. Walton has not heard back from Scott Murray regarding this matter.

Chair Benich closed the public hearing.

Commission discussion followed.

Commissioner Acevedo is interested in hearing from Public Works. DDPW Bjarke stated Public Works has agreed to meet with the applicant.

PM Rowe asked the Commission if it is possible to approve the request with direction to staff to work out the improvement details. Commissioner Mueller inquired about the guidelines of the negotiation. The Commission expressed that the road has to be installed.

COMMISSIONER MUELLER MADE A MOTION TO APPROVE THE TENTATIVE MAP, SD-05-08: GINGER – CUSTOM ONE, WITH THE MODIFICATIONS RECOMMENDED BY STAFF AND THAT PUBLIC WORKS AND THE APPLICANT WORK OUT THE DETAILS REGARDING THE INSTALLATION OF THE ROADWAY. COMMISSIONER LYLE SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, LYLE, MUELLER; NOES: DAVENPORT, ESCOBAR; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER MADE A MOTION TO RECOMMEND APPROVAL OF THE DEVELOPMENT AGREEMENT, DA-05-06: GINGER – CUSTOM ONE, WITH THE MODIFICATIONS RECOMMENDED BY STAFF AND THAT PUBLIC WORKS AND THE APPLICANT WORK OUT THE DETAILS REGARDING THE INSTALLATION OF THE ROADWAY.

COMMISSIONER LYLE SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, LYLE, MUELLER; NOES: DAVENPORT, ESCOBAR; ABSTAIN: NONE; ABSENT: NONE.

**5) ZAA-05-11:
CITY OF M.H.-
DOWNTOWN
ZONING
AMENDMENTS**

A request for amendment(s) to Title 18 of the Morgan Hill Municipal Code: Adding Chapter 18.23 (Ground Floor Overlay District) to implement the Morgan Hill Downtown Plan recommendation of encouraging retail, restaurant, entertainment and related uses and rezoning certain properties generally located on Monterey Road between Main Avenue and 5th Street and on 3rd Street between Monterey Road and Depot Street (APN's 726-14-001 through -008, -010 through -014, -027 through -030, -036, and -048 through -050; 767-07-010 through -011, -029 through -031, -047 through -050, -057, -058, -064, and -066; 726-08-004, -006, -044 and -045; 726-13-017 through -021, and -037 through -044); Amending Chapter 18.24 (CC-R Central Commercial/Residential District) by reorganizing allowable use categories into Permitted Uses and Conditional Uses; and, Amending Chapter 18.54 (Conditional and Temporary Use Permits) by modifying findings required for approval of a Downtown Administrative Use Permit, establishing a three year time limit, and a process for extensions.

Commissioner Acevedo stepped down due to conflict of interest.

CDD Molloy Previsich presented the staff report. CDD Molloy Previsich noted that SP Marlatt did the staff work on this project, however he is out and she is pinch hitting. Staff recommended that the Commission recommend approval of the zoning amendments.

Commissioner Lyle inquired about 18.54.280 Expiration – Extensions, he believes staff should limit the time period the applicant has to request an extension. SP Marlatt suggested to Commissioner Lyle in an earlier discussion that staff may want to add language which will allow the applicant to apply for the extension no sooner than six months before the existing extension expires. Commissioner Lyle suggested a couple of other minor modifications, typos and inclusion of the Downtown Association in some language. Commissioner Lyle asked CDD Molloy Previsich about what constitutes “retail window display interest.” CDD Molloy Previsich stated that there may be an oversight in the recommended modifications that could be corrected and would further emphasize that criterion. In Exhibit D: The Downtown Administrative Use Permit Provisions, 18.54.250 (G) (i) staff could strike out “A statement the building is not designed and/or located appropriately to accommodate retail use(s)” and include a statement regarding retail display window visual interest. You could have a personal service with storefront retail display able to be obtained through the downtown administrative use permit, and require a conditional use permit through the Planning Commission for a personal service use without storefront retail. Commissioner Mueller has an issue with the Exhibit A: 18.24.110 (D): Commercial Uses – Performance Standards, he thinks this will be a real problem for Monterey to Depot between 2nd and 4th. That area should be oriented toward commercial development. If there's one residential unit, then all the commercial projects would have to comply with this criterion. This could potentially hinder commercial retail in this area. CDD Molloy Previsich added this is an existing provision which staff is not proposing to change. However, when you read through it there are some provisions that may actually be

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problematic. CDD Molloy Previsich noted that all other performance standards in the provision have to deal with use, such as: noise, hours of operation, trip generations, etc. This is actually a design standard that may not belong in this section of the code.

Chair Benich opened the hearing for public comment.

Ms. Marina Arellano, a downtown resident located at 17150 Monterey Road, expressed her concern about changes to the downtown area. Her only concern is that she keeps her home as a commercial/residential unit. She would like the Commission to keep in mind when planning for the downtown area that there still are a number of residential units downtown facing Monterey. She doesn't intend to move any time soon.

Mr. Gary Walton, a representative of the Morgan Hill Downtown Association, stated that this is an ordinance that needs to be modified. The original ordinance is inadequate and it is important that these changes be approved. The Morgan Hill Downtown Association supports staffs zoning amendment changes.

Mr. Geno Acevedo, a downtown business owner located at 17605 Monterey Road stated he agrees with Commissioner Mueller that some of the performance standard provisions in the ordinance may actually hinder commercial development in the downtown area. As a business owner, if you're interested in having a strong retail business it would probably be located in a big shopping mall or along the freeway. Downtown should be used for clubs, restaurants, bars and specialty shops. With that said, Mr. Acevedo stated that there are some parts of this ordinance that do not belong, such as: 18.24.060 the ordinance has small family day care, schools, offices, etc. as permitted uses and nightclubs, theaters and bars as conditional uses. Mr. Acevedo believes it should be the other way around; nightclubs, bars and theaters should actually be permitted uses and the other uses should be considered conditional uses.

Chair Benich closed the public hearing.

Commission discussion followed.

Chair Benich stated that he has similar beliefs as Mr. Acevedo. The City should make it easier for business owners to locate in the main downtown corridor, specifically along Monterey Road. Commissioner Mueller stated that we're looking for businesses with high-traffic retail shops. Commissioner Escobar stated that in order for a downtown area to thrive, it would need to be made up of mixed-use retail shops, for example: bakeries, high-end retail, breakfast eateries, dinner houses, etc. It is this cross traffic that will allow the downtown area to thrive throughout the day. Chair Benich stated he thinks they're all on the same page, however he does not want to make it hard for these entrepreneurs that are interested in locating downtown, perhaps we should make these types of retail a permitted use. Commissioner Koepp-Baker stated that if the Commission begins to restrict who can do what and where, we will lose potential businesses in the downtown area. Commissioner Mueller stated that if we create a sense of place; use will follow. Commissioner Mueller asked if staff would be interested in taking some of these changes and recommendations and come back before the Commission in a couple weeks with revisions.

COMMISSIONER MUELLER MADE A MOTION TO CONTINUE THE ITEM

TO THE OCTOBER 10, 2006 MEETING. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: ACEVEDO; ABSENT: NONE.

**6) EA-06-25:
OJO DE AGUA
REDEVELOPMENT
PROJECT
AMENDMENT-CITY
OF M.H.**

Draft Program Environmental Impact Report (EIR) for the Ojo de Agua Redevelopment Project Amendment.

CDD Molloy Previsich presented the staff report. Commissioner Mueller asked staff about the preliminary report, page 8, under project description; it refers to downtown as being the social and commercial center of the community. Commissioner Mueller stated he has a problem with the description when we have a million square feet of commercial along 101/Cochrane Road. He would like to see this worded differently. Chair Benich confirmed with CDD Molloy Previsich that the purpose of the hearing tonight is for the Commission to provide comments on the Draft EIR. The preliminary report that Commissioner Mueller is referring to is not something that the Planning Commission approves, it has been forwarded to the Commission as background information.

Chair Benich opened the hearing for public comment.

Mr. Ernie Glover, a representative from GRC Redevelopment Consultants stated the preliminary report is intended as an informational document justifying the proposal made by the agency to the county, school districts, etc. However, it is valuable for other stakeholders to review.

Ms. Eva Docovich, owner of four adjoining parcels on East Third Street, requested that as stakeholders of the item before the Commission, they be invited to attend any future meetings regarding this agenda item. Most of her concern center on inclusion of eminent domain and definitions of blight, rather than the EIR report specifically.

Chair Benich closed public comment.

Commissioner discussion followed.

Commissioner Lyle asked about page 1 and elsewhere in the document it states reestablish eminent domain authority only on certain commercial corridors for non-residential...BAHSD Toy advised there is a map that identifies certain commercial corridors. In essence, the map refers to properties along the entire Monterey corridor and the downtown area (Depot, Del Monte, Main, and Dunne). Commissioner Lyle expressed his concern with an example of a residential property surrounded by commercial properties, eminent domain for that area would be important. BAHSD Toy stated that the reason for the limitation is because if residential properties were included then a project area committee would have to review this plan amendment. Commissioner Koepp-Baker asked BAHSD Toy about the narrative that calls out residential non-owner occupied, is there a distinguishing characteristic in that category. BAHSD Toy advised that if a property is occupied and/or residential it is not eligible. Commissioner Mueller stated that the EIR is missing financial data and the impact to the general fund. CDD Molloy Previsich advised that usually is not included in a CEQA Environmental Impact Report. Mr. Glover stated that the Redevelopment law

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allows for the interjection of these types of issues in the Report to City Council. Commissioner Mueller expressed his concern about the mitigation that commits RDA to support funding on a proportionate basis regional transportation. This could potentially open us up to every County and State agency walking on part of our RDA money to fund anything they can relatively closely be associated to the City. He's not sure why we would expose ourselves to this possibility. CDD Molloy Previsich advised it is intended to address cumulative traffic impacts to the region as an impact fee, but perhaps just Mitigation #2 would suffice, which also addresses that impact. Mr. Glover stated point well taken and they'll look at it (Mitigation #1 Traffic). Commissioner Lyle asked about page 23, it states a plan effective date, what does this mean? Mr. Glover advised this is the period of time which the powers of the RDA are in effect, after this time all an agency can do is implement its low/moderate income housing program and pay off debt. Essentially it goes out of business. Commissioner Lyle commented on the table on page 24, he stated some of the information presented in the report is not justified by the financial analysis that was performed. Commissioner Lyle stated he is lobbying for additional changes to be made to the financials based upon comments he sent in. Commissioner Davenport expressed his concern with the whole eminent domain issue. Mr. Glover explained if property is sold under threat of eminent domain, the seller gets an extra two years to reinvest capital gains if it's commercial reinvestment; in addition, the seller is allowed to carry their old tax base forward to another property or up to 125 percent of that. Mr. Glover advised in California blight must be present in order to justify the use of eminent domain. Commissioner Lyle stated that the term blighted in the financials is not physical blight, its absentee owners, vacancy rates, etc. Chair Benich requested a new map of blighted conditions; removing all properties that are considered blight due to the threat of flooding.

7) ZA-06-13: CITY OF M.H.-TEXT AMENDMENT TO CHAPTER 18.12 TO ALLOW SECONDARY DWELLINGS AS A PERMITTED USE IN THE R-1 (7000) AND R-1 (9000) DISTRICTS AND AMENDMENT TO CHAPTER 18.18 TO INCREASE THE MAXIMUM ALLOWABLE DENSITY BONUS

A request for amendments to Title 18 of the Morgan Hill Municipal Code: Amendment to Chapter 18.12, eliminating the conditional use requirement and allowing secondary dwelling units as a permitted use in the R-1 (7000) and R-1 (9000) districts and amending Chapter 18.18 to increase the maximum density bonus to 35 percent as provided in Chapter 18.47 of the Municipal Code.

PM Rowe presented the staff report. Chair Benich advised staff may want to change the 18.18.110 – Density bonus conditions, (B) (2) to ten percent density bonus, at a later date.

COMMISSIONER MUELLER MADE A MOTION TO RECOMMEND APPROVAL OF ZA-06-13 WITH CHANGES TO THE LAST SENTENCE IN SECTION 18.18.110 (A) FROM TWENTY-FIVE PERCENT TO THIRTY-FIVE PERCENT. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

8) DRAFT POLICY TO ESTABLISH SEPARATE DEVELOPMENT SCHEDULES FOR MONITORING OF

A request to adopt a policy establishing separate development schedules for residential projects awarded a building allotment under the Residential Development Control System. Also requested is administrative authority to extend interim deadline dates due to permit delays not the result of Developer inaction.

PLANNING COMMISSION MEETING MINUTES

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**MEASURE C
PROJECTS AND
AMENDING
INTERIM
DEADLINE DATES
FOR MEASURE C
PROJECTS**

PM Rowe presented the staff report.

Commissioner Acevedo expressed his opinion regarding the development schedules for residential projects awarded under the RDCS; these dates are the result of planning commission discussion and discussion between the applicant, staff, and the commission. Commissioner Mueller recommended removing the dates from the development agreement because essentially it is the economy that drives these dates. Commissioner Lyle stated that as part of the RDCS scoring system developers earn points for pulling permits and commencing construction. In an effort to meet ABAG numbers, we may need to have the applicant pull half their permits by one date and the other half another date.

THE COMMISSION ADVISED STAFF TO MOVE FORWARD WITH THE DRAFT POLICY.

ANNOUNCEMENTS:

Next Planning Commission meeting: 9/26/2006

Next City Council Meeting: 9/13/2006

Commissioner Acevedo shared his experience obtaining a license from the State Alcohol Beverage Control Board.

Chair Benich asked if we've received a response from CalTrans regarding fences at the freeway exits. Staff advised we have not received a response yet.

Chair Benich asked if they could draft an ordinance to restrict 18 wheelers from going through the downtown corridor. PM Rowe will look into it.

ADJOURNMENT:

Meeting adjourned at 10:27 pm.

MINUTES PREPARED BY:

MONICA C. DELGADO, Minutes Clerk